

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 286 be amended to read as follows:

- 1 Page 2, between lines 2 and 3, begin a new paragraph and insert:
2 "SECTION 2. IC 6-1.1-5-7 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A person to
4 whom the title to real property has passed, either under the laws of
5 descent of this state or by virtue of the last will of a decedent, may
6 procure a transfer of the real property on the tax duplicate on which the
7 real property is assessed and taxed. In order to procure the transfer, the
8 person must prepare an affidavit and, except as provided in section 9 of
9 this chapter, file it with the auditor of the county in which the real
10 property is situated. The affidavit shall contain the following
11 information:
12 (1) The ~~decedent's~~ **person's** date of death.
13 (2) Whether the ~~decedent~~ **person** died testate or intestate. ~~and~~
14 (3) The affiant's interest in the real property.
15 **(4) If the real property is residential property, the amount of**
16 **any taxes that have been deferred under IC 6-1.1-45.**
17 In addition, if the ~~decedent~~ **person** died testate, the affiant must attach
18 a certified copy of the decedent's will to the affidavit. However, if the
19 will has been probated or recorded in the county in which the real
20 property is located, the affiant, in lieu of attaching a certified copy of
21 the will, shall state that fact in the affidavit and indicate the volume and
22 page of the record where the will may be found.
23 (b) Except as provided in section 9 of this chapter, the county
24 auditor shall enter a transfer of the real property in the proper transfer

1 book after the affidavit is filed with ~~his~~ **the county auditor's** office.

2 (c) No transfer made under this section has the effect of conferring
3 title upon the person procuring the transfer.

4 **(d) Before the county auditor may transfer real property**
5 **described in subsection (a) on the last assessment list or apportion**
6 **the assessed value of the real property among the owners, the**
7 **owner must pay or otherwise satisfy all taxes on the parcels being**
8 **transferred that have become due under IC 6-1.1-45 as a result of**
9 **the death of the person by paying the property tax to the county**
10 **treasurer of the county in which the real property is located.**

11 **(e) A lien for and the duty to pay property taxes that are due**
12 **and owing is not released or otherwise extinguished if a county**
13 **auditor transfers the real property in the proper transfer book in**
14 **violation of subsection (d). Property taxes that are due and owing**
15 **on the affected parcel of property may be collected as if the county**
16 **auditor had not transferred the property in the proper transfer**
17 **book in violation of subsection (d).**

18 SECTION 3. IC 6-1.1-5.5-5, AS AMENDED BY P.L.90-2002,
19 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 UPON PASSAGE]: Sec. 5. The department of local government finance
21 shall prescribe a sales disclosure form for use under this chapter. The
22 form prescribed by the department of local government finance must
23 include at least the following information:

- 24 (1) The key number of the parcel (as defined in IC 6-1.1-1-8.5).
- 25 (2) Whether the entire parcel is being conveyed.
- 26 (3) The address of the property.
- 27 (4) The date of the execution of the form.
- 28 (5) The date the property was transferred.
- 29 (6) Whether the transfer includes an interest in land,
- 30 improvements, or both.
- 31 (7) Whether the transfer includes personal property.
- 32 (8) An estimate of any personal property included in the transfer.
- 33 (9) The name and address of each transferor and transferee.
- 34 (10) The mailing address to which the property tax bills or other
- 35 official correspondence should be sent.
- 36 (11) The ownership interest transferred.
- 37 (12) The classification of the property (as residential, commercial,
- 38 industrial, agricultural, vacant land, or other).
- 39 (13) The total price actually paid or required to be paid in
- 40 exchange for the conveyance, whether in terms of money,
- 41 property, a service, an agreement, or other consideration, but
- 42 excluding tax payments and payments for legal and other services
- 43 that are incidental to the conveyance.
- 44 (14) The terms of seller provided financing, such as interest rate,
- 45 points, type of loan, amount of loan, and amortization period, and

whether the borrower is personally liable for repayment of the loan.

(15) Any family or business relationship existing between the transferor and the transferee.

(16) If the transferred property is residential property, the amount of any taxes deferred under IC 6-1.1-45.

(17) Other information as required by the department of local government finance to carry out this chapter."

Page 7, delete lines 29 through 42.

Page 8, delete lines 1 through 14.

Page 14, delete line 42.

Delete page 15.

Page 16, delete lines 1 through 25.

Page 20, delete lines 17 through 42, begin a new paragraph and insert:

"SECTION 10. IC 6-1.1-21.9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 21.9. Property Tax Deduction Replacement Credits

Sec. 1. This chapter applies to a qualified property tax deduction.

Sec. 2. The definitions set forth in IC 6-1.1-21 apply throughout this chapter.

Sec. 3. As used in this chapter, "county property tax deduction replacement amount" means the sum of a particular county's taxpayer property tax deduction replacement credits.

Sec. 4. As used in this chapter, "qualified property tax deduction" means the property tax deduction under IC 6-1.1-12-43.

Sec. 5. As used in this chapter, "taxpayer's property tax deduction replacement credit" means the amount determined in the last of the following STEPS:

STEP ONE: Determine the sum of the taxpayer's qualified property tax deductions.

STEP TWO: Divide the STEP ONE amount by one hundred dollars (\$100).

STEP THREE: Multiply the STEP TWO result by the total net tax rate applicable in the taxpayer's taxing district.

Sec. 6. The department, with the assistance of the auditor of state and the department of local government finance, shall determine for each county an amount equal to the county property tax deduction replacement amount.

Sec. 7. For purposes of calculating tax rates, the county auditor shall add the sum of each county taxpayer's qualified property tax

deductions to the county's net assessed value.

Sec. 8. For purposes of calculating a particular taxpayer's tax bill, the county treasurer shall add the sum of the taxpayer's qualified property tax deductions to the taxpayer's net assessed value.

Sec. 9. Each year a taxpayer that:

(1) has taxable property in a taxing district; and

(2) receives a deduction described in section 43 of this chapter;

shall receive a credit for property tax deduction replacement in the amount of that taxpayer's property tax deduction replacement credit amount applicable to the taxpayer's taxable property in a taxing district for taxes that under IC 6-1.1-22-9 are due and payable in May and November of that year. Fifty percent (50%) of the credit shall be applied to each installment of taxes if the taxpayer is required to pay more than one (1) installment. The dollar amount of the credit for each taxpayer shall be determined by the county auditor based on data furnished by the department of local government finance.

Sec. 10. (a) The department of state revenue shall distribute to the county treasurer in each county an amount equal to the total property tax deduction replacement amount credits granted in the county for the year under this chapter. The distribution shall be made in installments at the same time as installments are made under IC 6-1.1-21-10. The amount necessary to make the distributions required by this subsection is annually appropriated from the state general fund.

(b) The county treasurer shall distribute the amount received under this section to taxing units in the county in proportion to the amount of property tax revenue lost in the taxing unit as a result of the application of the credits granted under this chapter. The amount received by a county taxing unit under this section shall be treated as property taxes for all purposes.

SECTION 11. IC 6-1.1-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. On or before March 15 of each year, the county auditor shall prepare and deliver to the auditor of state and the county treasurer a certified copy of an abstract of the property, assessments, taxes, deductions, and exemptions for taxes payable in that year in each taxing district of the county. The county auditor shall prepare the abstract in such a manner that the information concerning property tax deductions reflects the total amount of each type of deduction. The abstract shall also contain a statement of the taxes and penalties unpaid in each taxing unit **and the**

1 **amount of taxes deferred under IC 6-1.1-45** at the time of the last
 2 settlement between the county auditor and county treasurer and the
 3 status of these delinquencies **and deferred taxes**. The county auditor
 4 shall prepare the abstract on the form prescribed by the state board of
 5 accounts. The **offices of the** auditor of state, county auditor, and
 6 county treasurer shall each keep a copy of the abstract ~~in his office~~ as
 7 a public record.

8 SECTION 12. IC 6-1.1-22-6 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The county
 10 treasurer shall keep a register of taxes and special assessments in the
 11 manner and on the form prescribed by the state board of accounts. ~~He~~
 12 **The county treasurer** shall enter:

- 13 (1) each payment of the taxes and special assessments in the
- 14 register on the day the payment is received; **and**
- 15 (2) **the deferral of the payment of property taxes in the**
- 16 **register on the day that a notice is received from the county**
- 17 **auditor under IC 6-1.1-45.**

18 SECTION 13. IC 6-1.1-22-8 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The county
 20 treasurer shall either:

- 21 (1) mail to the last known address of each person liable for any
- 22 property taxes or special assessment, as shown on the tax
- 23 duplicate or special assessment records, or to the last known
- 24 address of the most recent owner shown in the transfer book a
- 25 statement of current and delinquent taxes and special assessments;
- 26 or
- 27 (2) transmit by written, electronic, or other means to a mortgagee
- 28 maintaining an escrow account for a person who is liable for any
- 29 property taxes or special assessments, as shown on the tax
- 30 duplicate or special assessment records, a statement of current
- 31 and delinquent taxes and special assessments.

32 (b) The county treasurer may include the following in the statement:

- 33 (1) An itemized listing for each property tax levy, including:
- 34 (A) the amount of the tax rate;
- 35 (B) the entity levying the tax owed; and
- 36 (C) the dollar amount of the tax owed.
- 37 (2) Information designed to inform the taxpayer or mortgagee
- 38 clearly and accurately of the manner in which the taxes billed in
- 39 the tax statement are to be used.

40 (c) **The county treasurer shall include in a statement**
 41 **concerning residential real property that is distributed under**
 42 **subsection (a) after March 24, 2004, the following:**

- 43 (1) **Information concerning the availability of the property**
- 44 **tax deferral program under IC 6-1.1-45.**
- 45 (2) **The cumulative total of each of the property taxes**

1 **deferred under IC 6-1.1-45 in the current year and all prior**
 2 **years, if the amount is greater than zero (0).**

3 **(d)** A form used and the method by which the statement and
 4 information, if any, are transmitted must be approved by the state board
 5 of accounts. The county treasurer may mail or transmit the statement
 6 and information, if any, one (1) time each year at least fifteen (15) days
 7 before the date on which the first or only installment is due. Whenever
 8 a person's tax liability for a year is due in one (1) installment under
 9 IC 6-1.1-7-7 or section 9 of this chapter, a statement that is mailed
 10 must include the date on which the installment is due and denote the
 11 amount of money to be paid for the installment. Whenever a person's
 12 tax liability is due in two (2) installments, a statement that is mailed
 13 must contain the dates on which the first and second installments are
 14 due and denote the amount of money to be paid for each installment.

15 ~~(c)~~ **(e)** All payments of property taxes and special assessments shall
 16 be made to the county treasurer. The county treasurer, when authorized
 17 by the board of county commissioners, may open temporary offices for
 18 the collection of taxes in cities and towns in the county other than the
 19 county seat.

20 SECTION 14. IC 6-1.1-22-9, AS AMENDED BY P.L.1-2004,
 21 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 UPON PASSAGE]: Sec. 9. (a) Except as provided in IC 6-1.1-7-7,
 23 **IC 6-1.1-45**, section 9.5 of this chapter, and subsection (b), the
 24 property taxes assessed for a year under this article are due in two (2)
 25 equal installments on May 10 and November 10 of the following year.

26 (b) A county council may adopt an ordinance to require a person to
 27 pay the person's property tax liability in one (1) installment, if the tax
 28 liability for a particular year is less than twenty-five dollars (\$25). If the
 29 county council has adopted such an ordinance, then whenever a tax
 30 statement mailed under section 8 of this chapter shows that the person's
 31 property tax liability for a year is less than twenty-five dollars (\$25) for
 32 the property covered by that statement, the tax liability for that year is
 33 due in one (1) installment on May 10 of that year.

34 (c) If property taxes are not paid on or before the due date, the
 35 penalties prescribed in IC 6-1.1-37-10 shall be added to the delinquent
 36 taxes.

37 (d) Notwithstanding any other law, a property tax liability of less
 38 than five dollars (\$5) is increased to five dollars (\$5). The difference
 39 between the actual liability and the five dollar (\$5) amount that appears
 40 on the statement is a statement processing charge. The statement
 41 processing charge is considered a part of the tax liability.

42 SECTION 15. IC 6-1.1-22-10 IS AMENDED TO READ AS
 43 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A person
 44 who is liable for property taxes under IC 6-1.1-2-4, **including property**
 45 **taxes deferred under IC 6-1.1-45 after the deferred taxes become**

due, is personally liable for the taxes and all penalties, cost, and collection expenses, including reasonable attorney's fees and court costs, resulting from late payment of the taxes.

(b) A person's liability under this section may be enforced by any legal remedy, including a civil lawsuit instituted by a county treasurer or a county executive to collect delinquent taxes. One (1) action may be initiated to collect all taxes, penalties, cost, and collection expenses levied against a person in the same county for one (1) or more years. However, an action may not be initiated to enforce the collection of taxes after ten (10) years from the first Monday in May of the year in which the taxes first became due. An action initiated within the ten (10) year period may be prosecuted to termination.

(c) **In addition to any other method of collection authorized under this article, the department of state revenue may collect:**

(1) property taxes deferred under IC 6-1.1-45, after the deferred taxes become due; and

(2) all penalties, costs, and collection expenses, including reasonable attorney's fees and court costs accruing under this article, after the deferred taxes become due under IC 6-1.1-45;

as a listed tax.

SECTION 16. IC 6-1.1-45 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 45. Senior Citizen Property Tax Deferral Program

Sec. 1. (a) This chapter applies to the deferral of the due date for the part of the ad valorem property taxes on a homestead otherwise first due and payable in a year that exceeds the base taxable amount.

(b) This chapter does not apply to the deferral of any of the following:

(1) Special assessments chargeable against a homestead.

(2) Fees or charges that are included, by law, on a tax statement issued under IC 6-1.1-22-8 for parcels that include a homestead.

Sec. 2. (a) As used in this chapter, "base taxable amount" means the sum of the following, adjusted as required under subsections (b) and (c):

(1) One hundred thirty-three percent (133%) of the amount of ad valorem property tax liability imposed on a homestead for the later of the following:

(A) The March 1, 2001, assessment date for property taxes first due and payable in 2002, if the claimant was an owner of the homestead on that assessment date.

1 **(B) The first assessment date on which the claimant is an**
 2 **owner of the homestead.**

3 **(2) Ad valorem property tax liability imposed on a homestead**
 4 **for improvements made to a homestead after the date**
 5 **specified in subdivision (1).**

6 **(b) For property taxes first due and payable for assessment**
 7 **dates after the later of the March 1, 2003, assessment date or the**
 8 **assessment date specified in subsection (a)(1)(B), the amount**
 9 **determined under subsection (a)(1) must be adjusted under this**
 10 **subsection. The adjusted amount is equal to the amount**
 11 **determined for the immediately preceding year under this section**
 12 **multiplied by the assessed value growth quotient applicable under**
 13 **IC 6-1.1-18.5-2 to the determination of maximum permissible ad**
 14 **valorem property tax levies for property taxes payable in that**
 15 **year.**

16 **(c) For property taxes first due and payable under subsection**
 17 **(a)(2) for assessment dates after the first assessment date on**
 18 **which an improvement is subject to tax liability, the amount**
 19 **determined under subsection (a)(2) must be adjusted under this**
 20 **subsection. The adjusted amount is equal to the amount**
 21 **determined for the immediately preceding year under this section**
 22 **multiplied by the assessed value growth quotient applicable under**
 23 **IC 6-1.1-18.5-2 to the determination of maximum permissible ad**
 24 **valorem property tax levies for property taxes payable in that**
 25 **year.**

26 **Sec. 3. As used in this chapter, "claimant" means a person**
 27 **filing an application for the deferral of taxes.**

28 **Sec. 4. As used in this chapter, "homestead" means a**
 29 **homestead as determined in the manner provided in IC 6-1.1-20.9.**

30 **Sec. 5. As used in this chapter, "senior citizen" means a person**
 31 **who is at least sixty-five (65) years of age before January 1 of a**
 32 **year in which taxes, subject to an application for deferral under**
 33 **this chapter, would otherwise be first due and payable.**

34 **Sec. 6. As used in this chapter, "surviving spouse of a senior**
 35 **citizen" means a surviving spouse of a senior citizen as**
 36 **determined in the manner provided in IC 6-1.1-12-9.**

37 **Sec. 7. For purposes of this chapter, a person shall be treated**
 38 **as:**

39 **(1) the owner of a homestead if the person has a relation to**
 40 **the homestead that qualifies the homestead for a homestead**
 41 **credit under IC 6-1.1-20.9; and**

42 **(2) having an interest that is an equity interest if the person:**
 43 **(A) is a beneficiary of a trust that has an equity interest**

1 in a homestead; or

2 (B) has a life estate in the homestead.

3 Sec. 8. A claimant may defer the due date for the part of the ad
4 valorem property taxes on a homestead otherwise first due and
5 payable in a year that exceeds the sum of the base taxable amount
6 if the following criteria are met:

7 (1) The homestead is the claimant's principal place of
8 residence as determined in the manner provided in
9 IC 6-1.1-20.9.

10 (2) The claimant is an owner of the homestead.

11 (3) The claimant is:

12 (A) a senior citizen; or

13 (B) the surviving spouse of a senior citizen.

14 (4) The owners of the homestead, including the claimant,
15 must:

16 (A) have at least a twenty percent (20%) equity interest
17 in the homestead; and

18 (B) meet any other criteria established by the department
19 of local government finance that are reasonably necessary
20 to protect the government's interest in recovering taxes
21 deferred under this chapter when the deferred taxes
22 become due.

23 (5) If the claimant is:

24 (A) a life tenant, the claimant has the consent of the
25 holders of the remainder interest; or

26 (B) purchasing the property on contract, the claimant has
27 the consent of the seller and any other persons purchasing
28 the homestead on contract;

29 to defer the payment of taxes under this chapter.

30 (6) On the date a claim is filed under this chapter, the
31 claimant is not delinquent in the payment of any taxes
32 imposed on the homestead.

33 (7) The claimant files a written application for the deferral in
34 the manner and within the time required under this chapter.

35 Sec. 9. The failure of a claimant to file an application for:

36 (1) a deduction under IC 6-1.1-12; or

37 (2) a homestead credit under IC 6-1.1-20.9;

38 for which the homestead would otherwise be eligible does not
39 disqualify the claimant from a deferral of taxes under this
40 chapter.

41 Sec. 10. An application for the deferral of taxes under this
42 chapter may be filed by:

43 (1) an individual who qualifies for a deferral of taxes under

1 **this chapter;**

2 **(2) a guardian of the property of the individual described in**
 3 **subdivision (1); or**

4 **(3) an attorney in fact of the individual described in**
 5 **subdivision (1), as signified by a written power of attorney.**

6 **Sec. 11. An application for a deferral of taxes under this**
 7 **chapter must be filed with the county auditor in the county in**
 8 **which the homestead is located:**

9 **(1) after January 1; and**

10 **(2) before May 11;**

11 **of the year in which the taxes being deferred would otherwise be**
 12 **first due and payable. However, the county auditor may set a later**
 13 **filing deadline for an application upon showing just cause.**

14 **Sec. 12. (a) An application for a deferral of taxes under this**
 15 **chapter must:**

16 **(1) be filed on the forms;**

17 **(2) contain the information; and**

18 **(3) be accompanied by any additional information;**

19 **prescribed by the department of local government finance.**

20 **(b) The claimant shall verify under penalties of perjury the**
 21 **truth of the information set forth in an application.**

22 **Sec. 13. The county auditor shall grant applications of claimants**
 23 **who qualify under this chapter.**

24 **Sec. 14. If an application for a deferral of taxes under this**
 25 **chapter is not granted in full, the county auditor shall notify the**
 26 **claimant by mail. The claimant may appeal a ruling that wholly or**
 27 **partially denies an application in the same manner that appeals**
 28 **may be taken under IC 6-1.1-15.**

29 **Sec. 15. (a) If the county auditor grants an application under**
 30 **this chapter:**

31 **(1) the county auditor shall send a written notice of the**
 32 **approval of the application to:**

33 **(A) the claimant; and**

34 **(B) if the homestead includes real property, the county**
 35 **recorder;**

36 **(2) the county auditor shall send an electronic or a written**
 37 **copy of the notice, as determined by the county treasurer, to**
 38 **the county treasurer; and**

39 **(3) the county auditor shall send an electronic copy of the**
 40 **notice to the department of local government finance.**

41 **(b) The written notice provided by the county auditor under**
 42 **subsection (a) must be in the form prescribed by the department**
 43 **of local government finance. The electronic copy must be in the**

1 form jointly prescribed by the department of local government
2 finance and the legislative services agency.

3 (c) The notice provided by the county auditor under subsection
4 (a) must include at least the following information:

5 (1) The name of the claimant.

6 (2) A statement indicating that the deferral of taxes
7 otherwise due in the specified year is approved.

8 (3) A statement identifying the amount of tax liability that is
9 deferred for each taxing unit and the total amount of taxes
10 that is deferred.

11 (4) A legal description of the homestead for which taxes are
12 deferred.

13 (5) The index number assigned under IC 6-1.1-5-2 for the
14 homestead or, if an index system is not used in the county,
15 a description of the county, township, block, and parcel or lot
16 in which the homestead is located.

17 (6) A statement indicating that the deferred taxes are a lien
18 on the property relating back to the assessment date for the
19 taxes.

20 (7) A description of the conditions under which the taxes
21 become due.

22 (8) A description of the procedure that should be followed to
23 pay the taxes.

24 The electronic copy of the notice submitted to the department of
25 local government finance must include the Social Security number
26 or other taxpayer identification number used by the claimant on
27 the claimant's state adjusted gross income tax returns.

28 (d) The notice provided by the county auditor under subsection
29 (a) must include or be accompanied by a brief statement
30 explaining the following:

31 (1) A taxpayer whose property taxes are paid by a lender via
32 an escrow or other similar account must enter the total
33 amount of each installment on a copy of the notice and mail
34 the copy to the county treasurer.

35 (2) The taxpayer will receive a refund check from the county
36 in the amount that the taxpayer entered on the notice within
37 thirty (30) days after the later of:

38 (A) the date on which the installment is paid by the
39 lender; or

40 (B) the date on which the notice is received by the county
41 treasurer.

42 (3) The intent of this procedure is to ensure that the taxes on
43 the claimant's homestead are not paid twice.

1 **Sec. 16.** The county recorder shall record a notice of deferral
2 received under section 15 of this chapter, without charge, in the
3 miscellaneous records of the county recorder.

4 **Sec. 17.** The department of local government finance shall
5 distribute a copy of each notice received under section 15 of this
6 chapter to the department of state revenue and, in an electronic
7 format under IC 5-14-6, to the legislative services agency.

8 **Sec. 18. (a)** Not later than the next distribution date under
9 IC 6-1.1-21-10 after the department of state revenue receives a
10 notice under section 17 of this chapter, the department of state
11 revenue shall distribute from the state general fund to the county
12 treasurer an amount equal to the amount of the deferred taxes
13 covered by the notice, less an amount equal to the amount of
14 deferred taxes imposed by the state. The department of state
15 revenue shall notify the auditor of state to transfer from the state
16 general fund to the appropriate fund an amount equal to the
17 deferred taxes imposed by the state.

18 **(b)** An amount distributed under subsection (a) is a temporary
19 advance of the deferred taxes. The amount is not a debt of a
20 taxing unit but is subject to repayment solely from amounts
21 collected when the deferred taxes become due.

22 **(c)** Within thirty (30) days after receipt, a county treasurer
23 shall distribute the money received from the department of state
24 revenue among the entities imposing the deferred taxes in
25 proportion to the amount of deferred taxes imposed by each
26 entity.

27 **(d)** An amount distributed or transferred under this section is
28 available for use by a taxing unit to the same extent and in the
29 same manner as if the amount had been collected as taxes. For
30 purposes of computing the ad valorem property tax levy limits
31 imposed under IC 6-1.1-18.5-3 or another provision, a taxing
32 unit's ad valorem property tax levy for a particular calendar year
33 includes that part of the levy deferred under this chapter.

34 **(e)** An error in the amount distributed or transferred under
35 this section shall be corrected on the next settlement date after
36 the error is discovered.

37 **(f)** The amounts necessary to make the distributions and
38 transfers required by this section are annually appropriated from
39 the state general fund.

40 **Sec. 19.** The approval of an application for a deferral of taxes
41 under this chapter defers the due date for the payment of an
42 installment of taxes even if the approval occurs after the due date
43 under IC 6-1.1-22-9.

1 **Sec. 20. (a) Subject to subsections (b) and (c), taxes deferred**
 2 **under this chapter become due on the earliest of the following:**

3 **(1) Subject to subdivision (3), thirty (30) days after the**
 4 **claimant ceases to occupy the homestead as the claimant's**
 5 **principal place of residence, as determined in the manner**
 6 **provided in IC 6-1.1-20.9.**

7 **(2) The date on which the owners cease to have at least a**
 8 **twenty percent (20%) equity interest in the homestead by**
 9 **reason other than death.**

10 **(3) If the claimant has died, the earliest of the following:**

11 **(A) The date on which an inheritance tax return would be**
 12 **due under IC 6-4.1 for the deceased claimant even if the**
 13 **estate of the deceased claimant is not required to file an**
 14 **inheritance return.**

15 **(B) The date on which the estate of the deceased claimant**
 16 **ceases to have at least a twenty percent (20%) equity**
 17 **interest in the homestead.**

18 **(C) Thirty (30) days after the date of the claimant's death,**
 19 **if the homestead transfers by operation of law or under an**
 20 **agreement on or after the claimant's death without**
 21 **becoming part of the estate of the deceased claimant.**

22 **(4) The date on which the claimant or another owner fails to**
 23 **comply with the requirements of a prior recorded security**
 24 **interest in the homestead that is senior to the lien for**
 25 **deferred amounts.**

26 **(b) Deferred taxes do not become due if the claimant's interest**
 27 **in a homestead is transferred to a trust and the claimant occupies**
 28 **the homestead as the claimant's principal place of residence, as**
 29 **determined in the manner provided in IC 6-1.1-20.9, after the**
 30 **transfer.**

31 **(c) Deferred taxes do not become due if the deceased claimant's**
 32 **interest in a homestead is transferred to the surviving spouse of**
 33 **the deceased claimant by death or other transfer and the**
 34 **surviving spouse of the deceased claimant occupies the homestead**
 35 **as the claimant's principal place of residence, as determined in the**
 36 **manner provided in IC 6-1.1-20.9, after the transfer. For purposes**
 37 **of applying subsection (a), the surviving spouse of the deceased**
 38 **claimant shall be treated as the claimant if the deceased**
 39 **claimant's interest is transferred as described in this subsection.**

40 **Sec. 21. (a) No penalties accrue on the taxes deferred under**
 41 **this chapter until the due date for the taxes established by section**
 42 **20 of this chapter.**

43 **(b) The county fiscal body may adopt an ordinance to assess an**

1 interest charge on the taxes deferred under this chapter. Interest
 2 may begin to accrue immediately or after any period of time set
 3 forth in the ordinance. An ordinance adopted under this
 4 subsection must set forth the rate of the interest charge imposed
 5 if the rate is fixed or the manner in which the interest rate will be
 6 determined if rates are variable. The interest rate may not be less
 7 than the market rate for variable rate mortgages in the county.

8 **Sec. 22.** If taxes coming due under section 20 of this chapter
 9 are not paid by the due date, the taxes shall be treated as
 10 delinquent property taxes under this article. The county auditor,
 11 in the manner prescribed by the department of local government
 12 finance, shall notify the department of local government finance
 13 of the delinquency within fifteen (15) days after the taxes become
 14 delinquent.

15 **Sec. 23.** When taxes deferred under this chapter are paid, the
 16 county treasurer shall:

- 17 (1) record the taxes as paid;
- 18 (2) notify the county auditor of the payment;
- 19 (3) if the deferred taxes are for real property, submit a
 20 written release of the lien for the amount of the payment to
 21 the county recorder for recording in the miscellaneous
 22 records of the county recorder;
- 23 (4) notify the department of local government finance of the
 24 payment in the form prescribed by the department of local
 25 government finance; and
- 26 (5) distribute the amount of the payment to the auditor of
 27 state for deposit in the state general fund.

28 The department of local government finance shall notify the
 29 legislative services agency (in an electronic format under
 30 IC 5-14-6) and the department of state revenue of the payment.

31 **Sec. 24. (a)** Except:

- 32 (1) as required by federal law or regulation;
- 33 (2) in the case of a loan that is made, guaranteed, or insured
 34 by a federal government lending or insuring agency requiring
 35 the borrower to make payments to a lender with respect to
 36 an escrow or other type of account; or
- 37 (3) in a case in which this section would impair the
 38 obligations of a borrower under an agreement executed
 39 before March 1, 2004;

40 a lender shall not require a borrower to maintain an escrow or
 41 other type of account with regard to taxes for which the borrower
 42 has elected to defer taxes under this chapter.

43 (b) For purposes of applying this section, an election to defer

1 **taxes in any year shall be treated as an election to defer a similar**
 2 **amount of taxes in later years except to the extent that:**

- 3 (1) the borrower notifies the lender of different terms; or
 4 (2) an application to defer taxes for a subsequent year is not
 5 filed within the time required under section 11 of this
 6 chapter.

7 (c) Any payments made by the borrower to the escrow or other
 8 type of account with regard to taxes, before the time of
 9 submission of the evidence of tax deferral, for any period, if not
 10 previously used in payment or partial payment of taxes, shall be
 11 refunded to the borrower within thirty (30) days after the payment
 12 is made.

13 SECTION 17. IC 6-8.1-1-1, AS AMENDED BY P.L.192-2002(ss),
 14 SECTION 140, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 UPON PASSAGE]: Sec. 1. "Listed taxes" or "taxes" includes only the
 16 pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat
 17 admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13);
 18 **the senior citizen deferred tax liability (IC 6-1.1-45)**; the gross
 19 income tax (IC 6-2.1) (repealed); the utility receipts tax (IC 6-2.3); the
 20 state gross retail and use taxes (IC 6-2.5); the adjusted gross income
 21 tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the
 22 county adjusted gross income tax (IC 6-3.5-1.1); the county option
 23 income tax (IC 6-3.5-6); the county economic development income tax
 24 (IC 6-3.5-7); the municipal option income tax (IC 6-3.5-8); the auto
 25 rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the
 26 gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1);
 27 the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1);
 28 a motor fuel tax collected under a reciprocal agreement under
 29 IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial
 30 vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC
 31 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2);
 32 the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the
 33 hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5);
 34 the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes
 35 (IC 6-9); the various county food and beverage taxes (IC 6-9); the
 36 county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee
 37 (IC 16-44-2); the emergency and hazardous chemical inventory form
 38 fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3
 39 and IC 9-30); the fees and penalties assessed for overweight vehicles
 40 (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23);
 41 the solid waste management fee (IC 13-20-22); and any other tax or fee
 42 that the department is required to collect or administer.

43 SECTION 18. [EFFECTIVE UPON PASSAGE] (a) **The definitions**
 44 **in IC 6-1.1-1 apply throughout this SECTION.**

45 (b) **IC 6-1.1-45, as added by this act, applies only to ad valorem**

1 **property taxes first due and payable for assessment dates after**
 2 **February 29, 2004."**

3 Page 21, delete lines 1 through 29.

4 Page 21, line 41, delete "and IC 6-1.1-20.9, as added by this".

5 Page 21, line 42, delete "act,".

6 Page 22, line 2, delete "IC 6-1.1-20.9-2,".

7 Renumber all SECTIONS consecutively.

(Reference is to ESB 286 as printed February 20, 2004.)

Representative Noe